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SENATE BILL 5834

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State of Washington

60th Legislature

2007 Regular Session

By Senator Jacobsen

Read first time 02/02/2007. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to licensing consulting foresters; adding a new  
2 chapter to Title 18 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that it is a matter of  
5 public necessity that forest resources in Washington be managed  
6 properly. It is the intent of the legislature to provide for the  
7 protection and benefit of the public by ensuring application of the  
8 highest standards relative to the practice of consulting forestry and  
9 to provide protection of the public from unqualified consulting  
10 forestry practitioners.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply  
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Board" means the state board of consulting foresters.

14 (2) "Department" means the department of licensing.

15 (3) "Consulting forester" means a person who, by reason of his or  
16 her knowledge of the natural sciences, mathematics, and the principles  
17 of forestry acquired by forestry education or experience, performs  
18 forestry services for the public on a fee basis, including but not

1 limited to, consultation, investigation, evaluation, planning, or  
2 responsible supervision of forestry activities when the services  
3 require the application of forestry principles and techniques.

4 (4) "Consulting forestry" means all professional services relating  
5 to the forest resources of the state that require the application of  
6 forestry principles, data, and techniques as acquired by experience,  
7 training, and education. Such services include, but are not limited  
8 to, consultation, investigations, evaluations, planning, and the  
9 formation and implementation of forestry policies when such activities  
10 require the application of forestry practices, data, and techniques.

11 (5) "Forestry" means the science and practice of managing forested  
12 landscapes and the treatment of the forest cover in general, and  
13 includes, among other things, the application of scientific knowledge  
14 and forestry principles in the fields of fuel management and forest  
15 protection, timber growing and utilization, forest inventories, forest  
16 economics, forest valuation and finance, and the evaluation and  
17 mitigation of impacts from forestry activities on watershed values, to  
18 achieve the purposes of this chapter. The practice of forestry applies  
19 only to those activities undertaken on forested landscapes. "Forestry"  
20 shall not include those activities performed by wildlife biologists,  
21 fisheries biologists, botanists, ecological restorationists, stream  
22 restorationists, hydrologists, or geologists.

23 (6) "Government forester" means any forester who is a regular full-  
24 time employee of a federal, state, or local governmental entity engaged  
25 in the management of public lands or renders extension forestry  
26 services to the public.

27 (7) "Industrial forestry business" means a private business which  
28 possesses expertise in consulting forestry and forestry, or that is  
29 engaged in the manufacture of wood products from raw materials  
30 harvested from the business's own land.

31 (8) "Person" means a natural person.

32 NEW SECTION. **Sec. 3.** No person shall receive income, whether  
33 directly or indirectly, for engaging in the practice of consulting  
34 forestry, or advertise as engaging in such practice, or solicit  
35 business in such practice, including but not limited to foresters whose  
36 responsibilities include industry-sponsored forestry assistance

1 programs for landowners and government foresters who advise private  
2 landowners, unless the person holds a valid license issued by the  
3 board. This section shall not prohibit, prevent, or affect:

4 (1) Any person from practicing forestry on his or her own land,  
5 including application for forest practices permits;

6 (2) Any government forester from practicing forestry on government  
7 land;

8 (3) Any person from practicing any other recognized profession or  
9 trade, including but not limited to vendors of tree planting, timber  
10 stand improvement practices, pesticide application, pest control, site  
11 preparation, heavy equipment, fire control activities, and timber  
12 harvesting;

13 (4) Any person employed by a forestry business from practicing  
14 forestry on the business's land;

15 (5) An industrial forestry business from engaging the services of  
16 an independent contractor to perform forestry tasks and projects  
17 directed or designed by the business; or

18 (6) Any person from practicing forestry under the direct  
19 supervision of a licensed consulting forester.

20 NEW SECTION. **Sec. 4.** There is created a state board of consulting  
21 foresters within the department to administer the provisions of this  
22 chapter. The board shall consist of five members appointed by the  
23 governor as follows: Three members shall be consulting foresters, two  
24 of whom shall be appointed from a list of at least three names  
25 submitted by nationally recognized professional forestry societies and  
26 associations; two members shall be members of the public, one of whom  
27 shall be appointed from a list of at least three names submitted by a  
28 recognized state-wide organization representing nonindustrial forest  
29 landowners; and the remaining public member shall be a person who is  
30 not, and never has been, a member of the forestry profession, or a  
31 relative of such a person, and who does not have and never has had, a  
32 material financial interest in the provision of forestry services or in  
33 an activity directly related to forestry. Each consulting forester  
34 member shall have actively practiced the profession of consulting  
35 forestry for at least ten years prior to appointment.

1        NEW SECTION.    **Sec. 5.**    (1) The initial members of the board shall  
2        serve for the following terms: One member for one year, one member for  
3        two years, one member for three years, one member for four years, and  
4        one member for five years. All five members of the first board must be  
5        appointed on the same date and shall serve their respective terms from  
6        the date of appointment.

7        (2) By virtue of their appointment, the initial three consulting  
8        forester members of the board shall issue to themselves the licenses as  
9        consulting foresters and pay the fees required under this chapter once  
10       the fees are established. After the initial three consulting forester  
11       members of the board have so qualified and been administered their  
12       oaths of office, no person shall be appointed as a consulting forester  
13       member of the board unless such person, at the time appointed, is a  
14       licensed consulting forester under this chapter.

15       (3) On the expiration of the term of each member, the governor  
16       shall appoint a successor to serve for a term of five years. Members  
17       of the board hold their offices until their successors are appointed.  
18       No member shall serve more than two consecutive terms.

19       (4) A quorum of the board shall be three members.

20       (5) The governor may remove any member of the board for cause.  
21       Vacancies on the board shall be filled by appointment for the unexpired  
22       term.

23       (6) In carrying out the provisions of this chapter, the members of  
24       the board shall be reimbursed for travel expenses in accordance with  
25       RCW 43.03.050 and 43.03.060.

26       NEW SECTION.    **Sec. 6.**    (1) The board has the following powers and  
27       duties:

28       (a) To adopt rules governing the holding of meetings and hearings,  
29       applications for licenses, and any other duties necessary for the  
30       administration of this chapter;

31       (b) To establish and issue standards of practice and a code of  
32       ethics for consulting foresters and provide for the enforcement of such  
33       standards and the code of ethics;

34       (c) To establish minimum requirements for professional continuing  
35       education;

36       (d) To prepare a biennial roster of the names, business addresses,

1 and other information as the board deems necessary of all licensed  
2 consulting foresters licensed under this chapter;

3 (e) To issue, suspend, or revoke licenses;

4 (f) To investigate and conduct hearings concerning alleged  
5 violations of this chapter; and

6 (g) To keep a record of its proceedings and a register of all  
7 applicants for licensing.

8 (2) The board may not impose standards of practice, a code of  
9 ethics, or other rules or requirements regarding forest practices that  
10 are more stringent than the rules adopted under chapter 76.09 RCW.

11 NEW SECTION. **Sec. 7.** (1) The minimum requirements for licensure  
12 as a consulting forester prior to January 1, 2010, are:

13 (a) Evidence of seven or more years' experience in practicing  
14 forestry and performing the services of a consulting forester that is  
15 satisfactory to the board; or

16 (b) Passage of a written examination administered by the board  
17 indicating that the applicant is competent to practice consulting  
18 forestry.

19 (2) The minimum requirements for licensure after January 1, 2010,  
20 are:

21 (a) Graduation in forestry or a related field, requiring study of  
22 four years or more, from a school, college, or university approved by  
23 the board;

24 (b) Evidence of five or more years' experience in practicing  
25 forestry and performing the services of a consulting forester  
26 satisfactory to the board; and

27 (c) Passage of a written examination administered by the board  
28 indicating that the applicant is competent to practice consulting  
29 forestry.

30 Evidence of seven or more years' experience in practicing forestry  
31 and performing the services of a consulting forester satisfactory to  
32 the board may substitute for the education and experience requirements  
33 of (a) and (b) of this subsection.

34 NEW SECTION. **Sec. 8.** An application for a consulting forester  
35 license shall be filed with the board before the date set for  
36 examination. The application fee shall be determined by the board and

1 shall include a nonrefundable examination fee and a fee for issuance of  
2 the license. The examination fee must be paid to the board by thirty  
3 days before the date of the examination.

4 NEW SECTION. **Sec. 9.** (1) Examinations of applicants for licenses  
5 shall be held at least annually and at such times and places as the  
6 board may determine.

7 (2) The scope of the examination and methods of procedure shall be  
8 prescribed by the board. The examination must cover timber management,  
9 including the ability to evaluate and appraise timber, use of  
10 contracts, applicable state statutes and rules, including labor and  
11 industries, and similar subjects necessary to the practice of  
12 consulting forestry.

13 NEW SECTION. **Sec. 10.** The board shall issue a license with a  
14 license number, upon payment of the license fee, to a qualified  
15 applicant who is certified by the board as having passed the required  
16 examination and as having given satisfactory proof of completion of the  
17 required experience to the board and who, in the opinion of the board,  
18 has satisfactorily met all the requirements of this chapter and the  
19 rules of the board.

20 NEW SECTION. **Sec. 11.** All plans, maps, specifications, and  
21 reports issued by a licensed consulting forester shall be endorsed with  
22 the name of the licensed consulting forester and a license number. No  
23 licensed consulting forester shall endorse any plan, specification,  
24 estimate, map, or related document unless he or she actually prepared  
25 or directly supervised the preparation of such document.

26 NEW SECTION. **Sec. 12.** No business, partnership, or corporation  
27 may be licensed to practice consulting forestry. Licensing shall be  
28 determined on the basis of individual personal qualifications.

29 NEW SECTION. **Sec. 13.** (1) The initial license expires on the  
30 second anniversary of the licensee's birthday following the issuance of  
31 the license and biennially thereafter.

32 (2) A licensee may renew a license prior to its expiration by

1 paying any required license renewal fee to the board and submitting  
2 proof of compliance with continuing education requirements.

3 NEW SECTION. **Sec. 14.** The board, upon application and payment of  
4 a fee determined by the board, may issue a license without further  
5 examination to a person who is legally licensed as a consulting  
6 forester in a state other than Washington and meets requirements set by  
7 the board. The requirements for licensure in the person's licensing  
8 state must be substantially equivalent to the requirements of this  
9 chapter and the state in which he or she is so licensed must observe  
10 the same rules of reciprocity granted under this chapter.

11 NEW SECTION. **Sec. 15.** The board has the power, after notice and  
12 hearing, to suspend or revoke the license of any licensee or assess  
13 administrative penalties against a licensee who:

14 (1) Is found liable for fraud, deceit, gross negligence, gross  
15 incompetency, or gross misconduct in the practice of consulting  
16 forestry;

17 (2) Is found liable by the board of unprofessional or unethical  
18 conduct;

19 (3) Has had his or her license suspended or revoked for cause in  
20 another jurisdiction;

21 (4) Fails to comply with the continuing education requirements  
22 established by the board;

23 (5) Has directly or indirectly through another person or entity,  
24 purchased or attempted to purchase timber from a landowner while  
25 providing forestry services for the landowner;

26 (6) Gives false or forged evidence of any kind to the board in  
27 obtaining a license;

28 (7) Uses an expired or revoked license; or

29 (8) Endorses any plan, specification, estimate, map, or related  
30 document unless he or she actually prepared or directly supervised the  
31 preparation of such document.

32 NEW SECTION. **Sec. 16.** (1) If, after investigation, the board  
33 determines there is reason to believe a violation of this chapter has  
34 taken place, the board shall prepare a statement of allegations and

1 serve the statement on the licensee or license applicant. All  
2 procedures related to hearings shall be in accordance with the  
3 administrative procedure act, chapter 34.05 RCW.

4 (2) In conducting hearings, any member of the board may administer  
5 oaths to witnesses appearing before the board, subpoena witnesses and  
6 compel their attendance, and require the production of books, records,  
7 papers, and documents. If any person refuses to obey any subpoena  
8 issued, or refuses to testify or to produce any books, records, papers,  
9 or documents required to be produced, the board may present a petition  
10 to the superior court of the county in which the person resides,  
11 setting forth the facts, and the court may, in a proper case, enter an  
12 order compelling compliance with this chapter and imposing other terms  
13 and conditions as the court deems equitable.

14 (3) Any person who feels aggrieved by any action of the board may  
15 appeal to the superior court of the county in which he or she resides.  
16 The court shall review the board's proceedings on the record presented  
17 and may, in a proper case, sustain or dismiss the appeal, or modify or  
18 vacate the board's order. However, in case the order is modified or  
19 vacated, the court may also, in its discretion, remand the matter to  
20 the board for further proceedings consistent with the court's order.

21 NEW SECTION. **Sec. 17.** (1) It is a misdemeanor for any person to:

22 (a) Practice consulting forestry without being licensed in  
23 accordance with this chapter;

24 (b) Use in connection with his or her name, or otherwise assume,  
25 use, or advertise any title or description tending to convey the  
26 impression that he or she is a licensed consulting forester without  
27 being licensed in accordance with this chapter;

28 (c) Present or attempt to use as his or her own the license of  
29 another;

30 (d) Give false or forged evidence of any kind to the board in  
31 obtaining a license;

32 (e) Use an expired or revoked license; or

33 (f) Endorse any plan, specification, estimate, map, or related  
34 document unless he or she actually prepared or directly supervised the  
35 preparation of such document.

36 (2) The board shall refer criminal violations of this chapter to

1 the appropriate prosecuting attorney for prosecution. A person  
2 convicted of a misdemeanor shall be punished according to RCW 9.92.030.

3 (3) The state attorney general or his or her designated assistant  
4 shall act as legal advisor to the board and render such assistance as  
5 may be necessary in carrying out the provisions of this chapter.

6 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act  
7 constitute a new chapter in Title 18 RCW.

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